

JOURNAL OF THE SENATE

NINETY-FIRST SESSION

TWENTY-FOURTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Friday, February 19, 2016

The Senate convened at 1:30 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Rev. Sarah Goldhammer, followed by the Pledge of Allegiance led by Senate page Autumn Simon.

Roll Call: All members present except Sens. Holien and Ewing who were excused.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the twenty-third day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Gary Cammack, Chair

Which motion prevailed.

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1 Also MR. PRESIDENT:

2 The Committee on State Affairs respectfully reports that it has had under consideration
3 SB 131 and returns the same with the recommendation that said bill be amended as follows:

4 131ja

5 On page 22 of the printed bill, delete lines 4 to 10, inclusive, and insert:

6 " Section 23. That the code be amended by adding a NEW SECTION to read:

7 There is hereby created the School Finance Accountability Board within the Department of
8 Education. The board shall consist of five members appointed by the Governor. The members
9 shall serve a term of four years.

10 The board may recommend that the provisions of section 24 of this Act be waived for a
11 school district if the district can demonstrate that its lowest monthly general cash fund cash
12 balance percentage is the result of special circumstances.

13 The board may recommend that a penalty against a school district imposed under section
14 27 of this Act be waived, in whole or in part, if the district can demonstrate that its failure to
15 comply with section 27 of this Act is due to special circumstances.

16 The School Finance Accountability Board shall promulgate rules pursuant to chapter 1-26
17 to establish the appeals process provided for in section 27 of this Act, and to establish the
18 factors that may be considered in considering a waiver requested by a school district, which
19 shall include the impact of retirements.

20 Any waivers of sections 24 or 27 of this Act recommended by the School Finance
21 Accountability Board must be approved by the Joint Committee on Appropriations or the
22 Interim Committee on Appropriations. The Department of Education shall annually report to
23 the Governor and the Legislature the information collected pursuant to § 13-8-47 and section
24 27 of this Act."

25 On page 22, delete lines 23 and 24, insert:

26 " Section 26. That § 13-8-47 be amended to read:

27 13-8-47. Before the first day of August every school board shall file an annual report with
28 the Department of Education. The report shall contain all the educational and financial
29 information and statistics of the school district as requested in a format established by the
30 Department of Education. The report shall also contain, for each month of the fiscal year, the
31 month-end cash balances of the school district's general fund, capital outlay fund, pension fund,
32 and special education fund. The report shall also contain the following information for the
33 district from the preceding fiscal year:

34 (1) Total teacher compensation, which is defined as the total amount spent on
35 instructional salaries and benefits for certified instructional staff;

- 1 (2) The total amount spent on instructional salaries for certified instructional staff;
- 2 (3) The total amount spent on benefits for certified instructional staff;
- 3 (4) The total number of certified instructional staff employed by the school district; and
- 4 (5) Any other information necessary to comply with the provisions of this Act.

5 The business manager, with the assistance of the secretary of the Department of Education, shall
6 make the annual report, and it shall be approved by the school board. The business manager
7 shall sign the annual report and file a copy with the Department of Education as provided in
8 § 13-13-37. The division shall audit the report and return one copy to the school district.

9 Reports not filed prior to August thirtieth are considered past due and are subject to the
10 past-due provisions of § 13-13-38.

11 Section 27. That the code be amended by adding a NEW SECTION to read:

12 The Department of Education shall calculate the following for each school district:

- 13 (1) The average teacher salary, based on data collected pursuant to §§ 13-8-47 and
14 13-3-51;
- 15 (2) The increase in state aid to general education funding, excluding any effect due to
16 change in the school district's fall enrollment and less the amount of revenue
17 generated in school fiscal year 2016 pursuant to § 13-10-6 as a percentage increase,
18 from fiscal year 2016 to fiscal year 2017; and
- 19 (3) The increase in average teacher compensation as a percentage increase, as defined in
20 § 13-8-47, from fiscal year 2016 to fiscal year 2017.

21 For each school district, the district's increase in average teacher compensation from fiscal
22 year 2016 to 2017 shall be equal to at least eighty-five percent of the district's increase in state
23 aid to general education funding, as defined in subdivision (2), from fiscal year 2016 to fiscal
24 year 2017.

25 If a district fails to comply with the requirements of this section, state aid to general
26 education funding to the district in fiscal year 2018 shall be decreased by an amount equal to
27 fifty percent of the amount calculated in subdivision (2). For fiscal years 2019, 2020, and 2021,
28 if a district's average teacher compensation is less than the district's average teacher
29 compensation in fiscal year 2017, state aid to general education funding to the district in the
30 following fiscal year shall be reduced by an amount equal to five hundred dollars for each
31 teacher employed in the school district.

32 A school district may request a waiver from any penalty imposed under this section from
33 the School Finance Accountability Board."

34 Delete page 23.

1 131cta

2 On page 1, line 1, of the printed bill, after "ratio" insert ",".

3 On page 1, delete line 2, and insert "to revise certain provisions regarding education
4 funding, to create the School Finance Accountability Board, and to provide for certain school
5 district reporting and penalties."

6 And that as so amended said bill do pass.

7 Also MR. PRESIDENT:

8 The Committee on State Affairs respectfully reports that it has had under consideration
9 SB 112 and returns the same with the recommendation that said bill be amended as follows:

10 112fa

11 On the printed bill, delete everything after the enacting clause and insert:

12 "

13 Section 1. That § 11-9-23 be amended to read:

14 11-9-23. If the municipality adopts an amendment to the original project plan for any
15 district, ~~which that~~ includes additional project costs for which ~~tax increments may be received~~
16 ~~by the municipality, the tax incremental base for the district will be incurred before the~~
17 expiration of the period specified in § 11-9-13 and the additional project costs do not exceed
18 thirty-five percent of the amount approved within the original project plan, the amendment shall
19 be made pursuant to § 11-9-18. An amendment to the original project plan that includes
20 additional project costs at least part of which will be incurred after the expiration of the period
21 specified in § 11-9-13 shall be redetermined pursuant to § 11-9-20. The tax incremental base
22 as redetermined under this section is effective for the purposes of this chapter only if it exceeds
23 the original tax incremental base determined under § 11-9-20."

24 And that as so amended said bill do pass and be placed on the consent calendar.

25 Also MR. PRESIDENT:

26 The Committee on State Affairs respectfully reports that it has had under consideration
27 SB 118 and returns the same with the recommendation that said bill be amended as follows:

28 118jb

29 On the printed bill, delete everything after the enacting clause and insert:

30 " Section 1. That § 5-18A-22 be amended to read:

5-18A-22. The provisions of this chapter and chapters 5-18B, 5-18C, and 5-18D do not apply to:

- (1) Any highway construction contract entered into by the Department of Transportation;
- (2) Any contract for the purchase of supplies from the United States or its agencies or any contract issued by the General Services Administration;
- (3) Any purchase of supplies or services, other than professional services, by purchasing agencies from any active contract that has been awarded by any government entity by competitive sealed bids or competitive sealed proposals or from any contract that was competitively solicited and awarded within the previous twelve months;
- (4) Any equipment repair contract;
- (5) Any procurement of electric power, water, or natural gas; chemical and biological products; laboratory apparatus and appliances; published books, maps, periodicals and technical pamphlets; works of art for museum and public display; medical supplies; communications technologies, computer hardware and software, peripheral equipment, and related connectivity; tableware or perishable foods;
- (6) Any supplies, services, and professional services required for externally funded research projects at institutions under the control of the Board of Regents;
- (7) Any property or liability insurance or performance bonds, except that the actual procurement of any insurance or performance bonds by any department of the state government, state institution, and state agency shall be made under the supervision of the Bureau of Administration;
- (8) Any supplies needed by the Department of Human Services or the Department of Social Services or prison industries for the manufacturing of products;
- (9) Any printing involving student activities, conducted by student organizations and paid for out of student fees, at institutions under the control of the Board of Regents. However, nothing in this subdivision exempts, from the requirements of this chapter and chapters 5-18B, 5-18C, and 5-18D, purchases that involve printing for other activities at institutions under the control of the Board of Regents;
- (10) Any purchase of surplus property from another purchasing agency;
- (11) Any animals purchased;
- (12) Any purchase by a school district of perishable food, raw materials used in construction or manufacture of products for resale, or for transportation of students;
- (13) Any authority authorized by chapters 1-16A, 1-16B, 1-16E, 1-16G, 1-16H, 1-16J, 5-12, or 11-11;

- 1 (14) Any seeds, fertilizers, herbicides, pesticides, feeds, and supplies used in the operation
2 of farms by institutions under the control of the Board of Regents;
- 3 (15) Any purchase of supplies for any utility owned or operated by a municipality if the
4 purchase does not exceed the limits established in § 5-18A-14;
- 5 (16) For political subdivisions, any contract for asbestos removal in emergency response
6 actions and any contract for services provided by individuals or firms for consultants,
7 audits, legal services, ambulance services, architectural services and engineering,
8 insurance, real estate services, or auction services;
- 9 (17) Any purchase of supplies or services from a contract established through a
10 Midwestern Higher Education Compact group purchasing program by a competitive
11 sealed bid or a competitive sealed proposal; ~~or~~
- 12 (18) Any contract concerning the custody, management, purchase, sale, and exchange of
13 fund investments and research by the State Investment Council or Division of
14 Investment; or
- 15 (19) Any purchase of equipment involving the expenditure of less than fifty thousand
16 dollars."

17 And that as so amended said bill do pass and and be placed on the consent calendar.

18 Respectfully submitted,
19 Gary Cammack, Chair

20 **MESSAGES FROM THE HOUSE**

21 MR. PRESIDENT:

22 I have the honor to transmit herewith HB 1024, 1177, 1204, 1238, and 1244 which have
23 passed the House and your favorable consideration is respectfully requested.

24 Respectfully,
25 Arlene Kvislen, Chief Clerk

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MOTIONS AND RESOLUTIONS

2 SENATE PAGE RESOLUTION 3 Introduced by: Senators Bradford; Brown; Buhl
3 O'Donnell; Cammack; Curd; Ewing; Fiegen; Frerichs; Greenfield, Brock; Haggar, Jenna;
4 Haverly; Heineman, Phyllis; Heinert; Holien; Hunhoff, Bernie; Jensen, Phil; Monroe; Novstrup,
5 David; Olson; Omdahl; Otten, Ernie; Parsley; Peters; Peterson, Jim; Rampelberg; Rusch;
6 Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

7 A RESOLUTION, Expressing the appreciation and gratitude of the Senate of the Ninety-first
8 Legislature of the State of South Dakota to Katherine Bogue, Ryder Heitz, Grace Jensen,
9 Jessica Johnson, Haley Ketteler, Emily Schmitz, Autumn Simon, Lacy Steiger, Melissa
10 Wollman.

11 WHEREAS, the above named served loyally as pages for the Senate of the Ninety-first
12 Legislative Session; and

13 WHEREAS, the members of the Ninety-first Senate express their most sincere appreciation
14 to these young people for their service to the state; and

15 WHEREAS, the members extend to these young people their wishes for every success in
16 life:

17 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Ninety-first Legislature
18 of the State of South Dakota, that a personal copy of this resolution be duly certified and
19 furnished to each page on this last day of service.

20 Sen. Olson moved that Senate Page Resolution 3 be adopted.

21 The question being on Sen. Olson's motion that Senate Page Resolution 3 be adopted.

22 And the roll being called:

23 Yeas 33, Nays 0, Excused 2, Absent 0

24 Yeas:

25 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
26 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
27 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
28 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
29 White

30 Excused:

31 Ewing; Holien

32 So the motion having received an affirmative vote of a majority of the members-elect, the
33 President declared the motion carried.

1 **CONSIDERATION OF REPORTS OF COMMITTEES**

2 Sen. Brown moved that the reports of the Standing Committees on
3 Judiciary on SB 44 as found on page 346 of the Senate Journal; also
4 Education on SB 69 as found on page 333 of the Senate Journal; also
5 Joint Committee on Appropriations on SB 16 as found on page 330 of the Senate Journal;
6 also
7 Senate Committee on Appropriations on HB 1208 as found on page 331 of the Senate
8 Journal be adopted.
9 Which motion prevailed.

10 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

11 HB 1024: FOR AN ACT ENTITLED, An Act to make an appropriation for the
12 maintenance and repair of state owned dams and to declare an emergency.

13 Was read the first time and the President Pro tempore waived the referral to the standing
14 committee pursuant to Joint Rule 6D-1.

15 HB 1177: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning tax
16 incentives for certain energy facilities.

17 Was read the first time and referred to the Committee on Taxation.

18 HB 1204: FOR AN ACT ENTITLED, An Act to provide a sales and use tax exemption for
19 certain nonprofit corporations created for the purpose of fire protection.

20 Was read the first time and referred to the Committee on Taxation.

21 HB 1238: FOR AN ACT ENTITLED, An Act to revise the powers and duties of the
22 Executive Board of the Legislative Research Council.

23 Was read the first time and referred to the Committee on State Affairs.

1 HB 1244: FOR AN ACT ENTITLED, An Act to revise provisions related to the sex
2 offender registry

3 Was read the first time and referred to the Committee on Judiciary.

4 **CONSIDERATION OF CONSENT EXECUTIVE AND JUDICIAL**
5 **APPOINTMENTS**

6 The Senate proceeded to the consideration of the judicial appointment of
7 Charles P. Schroyer of Hughes County, Pierre, South Dakota, to the Board of Pardons and
8 Paroles.

9 The question being "Does the Senate advise and consent to the judicial appointment of
10 Charles P. Schroyer pursuant to the judicial message as found on page 44 of the Senate
11 Journal?"

12 And the roll being called:

13 Yeas 33, Nays 0, Excused 2, Absent 0

14 Yeas:

15 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
16 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
17 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
18 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
19 White

20 Excused:

21 Ewing; Holien

22 So the question having received an affirmative vote of a majority of the members-elect, the
23 President declared the appointment confirmed.

24 The Senate proceeded to the consideration of the executive appointment of Susan Aguilar
25 of Minnehaha County, Sioux Falls, South Dakota, to the South Dakota Board of Education.

26 The question being "Does the Senate advise and consent to the executive appointment of
27 Susan Aguilar pursuant to the executive message as found on page 240 of the Senate Journal?"

28 And the roll being called:

29 Yeas 33, Nays 0, Excused 2, Absent 0

1 Yeas:

2 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
3 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
4 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
5 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
6 White

7 Excused:

8 Ewing; Holien

9 So the question having received an affirmative vote of a majority of the members-elect, the
10 President declared the appointment confirmed.

11 The Senate proceeded to the consideration of the executive appointment of Scott Herman
12 of Todd County, Mission, South Dakota, to the South Dakota Board of Education.

13 The question being "Does the Senate advise and consent to the executive appointment of
14 Scott Herman pursuant to the executive message as found on page 28 of the Senate Journal?"

15 And the roll being called:

16 Yeas 33, Nays 0, Excused 2, Absent 0

17 Yeas:

18 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
19 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
20 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
21 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
22 White

23 Excused:

24 Ewing; Holien

25 So the question having received an affirmative vote of a majority of the members-elect, the
26 President declared the appointment confirmed.

27 The Senate proceeded to the consideration of the executive appointment of James Morgan
28 of Brookings County, Brookings, South Dakota, to the State Board of Regents.

29 The question being "Does the Senate advise and consent to the executive appointment of
30 James Morgan pursuant to the executive message as found on page 28 of the Senate Journal?"

31 And the roll being called:

32 Yeas 33, Nays 0, Excused 2, Absent 0

1 Yeas:

2 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
3 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
4 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
5 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
6 White

7 Excused:

8 Ewing; Holien

9 So the question having received an affirmative vote of a majority of the members-elect, the
10 President declared the appointment confirmed.

11 The Senate proceeded to the consideration of the executive appointment of
12 Robert J. Wilson of Larimer County, Fort Collins, Colorado, to the South Dakota Science and
13 Technology Authority.

14 The question being "Does the Senate advise and consent to the executive appointment of
15 Robert J. Wilson pursuant to the executive message as found on page 29 of the Senate Journal?"

16 And the roll being called:

17 Yeas 33, Nays 0, Excused 2, Absent 0

18 Yeas:

19 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
20 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
21 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
22 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
23 White

24 Excused:

25 Ewing; Holien

26 So the question having received an affirmative vote of a majority of the members-elect, the
27 President declared the appointment confirmed.

28 The Senate proceeded to the consideration of the executive reappointment of
29 William S. Phillips of Meade County, New Underwood, South Dakota, to the Game, Fish and
30 Parks Commission.

31 The question being "Does the Senate advise and consent to the executive reappointment
32 of William S. Phillips pursuant to the executive message as found on page 239 of the Senate
33 Journal?"

34 And the roll being called:

1 Yeas 33, Nays 0, Excused 2, Absent 0

2 Yeas:

3 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
4 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
5 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
6 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
7 White

8 Excused:

9 Ewing; Holien

10 So the question having received an affirmative vote of a majority of the members-elect, the
11 President declared the reappointment confirmed.

12 The Senate proceeded to the consideration of the executive reappointment of
13 Wanda J. Blair of Meade County, Vale, South Dakota, to the State Brand Board.

14 The question being "Does the Senate advise and consent to the executive reappointment
15 of Wanda J. Blair pursuant to the executive message as found on page 256 of the Senate
16 Journal?"

17 And the roll being called:

18 Yeas 33, Nays 0, Excused 2, Absent 0

19 Yeas:

20 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
21 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
22 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
23 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
24 White

25 Excused:

26 Ewing; Holien

27 So the question having received an affirmative vote of a majority of the members-elect, the
28 President declared the reappointment confirmed.

29 The Senate proceeded to the consideration of the executive reappointment of Terry Sabers
30 of Davison County, Mitchell, South Dakota, to the South Dakota Board of Education.

31 The question being "Does the Senate advise and consent to the executive reappointment
32 of Terry Sabers pursuant to the executive message as found on page 240 of the Senate Journal?"

33 And the roll being called:

1 Yeas 33, Nays 0, Excused 2, Absent 0

2 Yeas:

3 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
4 Haggart (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
5 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
6 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
7 White

8 Excused:

9 Ewing; Holien

10 So the question having received an affirmative vote of a majority of the members-elect, the
11 President declared the reappointment confirmed.

12 The Senate proceeded to the consideration of the executive reappointment of
13 Randy Schaefer of Lake County, Madison, South Dakota, to the State Board of Regents.

14 The question being "Does the Senate advise and consent to the executive reappointment
15 of Randy Schaefer pursuant to the executive message as found on page 30 of the Senate
16 Journal?"

17 And the roll being called:

18 Yeas 33, Nays 0, Excused 2, Absent 0

19 Yeas:

20 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
21 Haggart (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
22 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
23 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
24 White

25 Excused:

26 Ewing; Holien

27 So the question having received an affirmative vote of a majority of the members-elect, the
28 President declared the reappointment confirmed.

29 The Senate proceeded to the consideration of the executive reappointment of
30 Dr. Ani Aprahamian of Notre Dame, Indiana, to the South Dakota Science and Technology
31 Authority.

32 The question being "Does the Senate advise and consent to the executive reappointment
33 of Dr. Ani Aprahamian pursuant to the executive message as found on page 29 of the Senate
34 Journal?"

1 And the roll being called:

2 Yeas 33, Nays 0, Excused 2, Absent 0

3 Yeas:

4 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
5 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
6 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
7 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
8 White

9 Excused:

10 Ewing; Holien

11 So the question having received an affirmative vote of a majority of the members-elect, the
12 President declared the reappointment confirmed.

13 The Senate proceeded to the consideration of the executive reappointment of
14 Casey Peterson of Pennington County, Rapid City, South Dakota, to the South Dakota Science
15 and Technology Authority.

16 The question being "Does the Senate advise and consent to the executive reappointment
17 of Casey Peterson pursuant to the executive message as found on page 30 of the Senate
18 Journal?"

19 And the roll being called:

20 Yeas 33, Nays 0, Excused 2, Absent 0

21 Yeas:

22 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
23 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
24 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
25 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
26 White

27 Excused:

28 Ewing; Holien

29 So the question having received an affirmative vote of a majority of the members-elect, the
30 President declared the reappointment confirmed.

1 **SECOND READING OF CONSENT CALENDAR ITEMS**

2 HB 1207: FOR AN ACT ENTITLED, An Act to authorize the sale of certain surplus real
3 estate at the Human Services Center and to provide for the deposit of the proceeds.

4 Was read the second time.

5 The question being "Shall HB 1207 pass as amended?"

6 And the roll being called:

7 Yeas 33, Nays 0, Excused 2, Absent 0

8 Yeas:

9 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
10 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
11 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
12 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
13 White

14 Excused:

15 Ewing; Holien

16 So the bill having received an affirmative vote of a majority of the members-elect, the
17 President declared the bill passed and the title was agreed to.

18 HB 1090: FOR AN ACT ENTITLED, An Act to require certain statements and audits
19 concerning insurance pooling arrangements to be filed with the Department of Legislative
20 Audit.

21 Was read the second time.

22 The question being "Shall HB 1090 pass?"

23 And the roll being called:

24 Yeas 33, Nays 0, Excused 2, Absent 0

25 Yeas:

26 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
27 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
28 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
29 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
30 White

1 Excused:
2 Ewing; Holien

3 So the bill having received an affirmative vote of a majority of the members-elect, the
4 President declared the bill passed and the title was agreed to.

5 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

6 SB 109: FOR AN ACT ENTITLED, An Act to require counties to conduct random
7 checkpoints for overweight vehicles as a condition of receiving funds from the bridge
8 improvement grant fund.

9 Was read the second time.

10 The question being "Shall SB 109 pass as amended?"

11 And the roll being called:

12 Yeas 13, Nays 20, Excused 2, Absent 0

13 Yeas:
14 Heineman (Phyllis); Hunhoff (Bernie); Monroe; Novstrup (David); Omdahl; Parsley; Peters;
15 Rampelberg; Rusch; Shorma; Tidemann; Tieszen; Vehle

16 Nays:
17 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
18 Haggar (Jenna); Haverly; Heinert; Jensen (Phil); Olson; Otten (Ernie); Peterson (Jim); Soholt;
19 Solano; Sutton; Van Gerpen; White

20 Excused:
21 Ewing; Holien

22 So the bill not having received an affirmative vote of a majority of the members-elect, the
23 President declared the bill lost.

24 SB 45: FOR AN ACT ENTITLED, An Act to revise certain provisions of the building
25 South Dakota fund programs.

26 Was read the second time.

45ma

1

2

Sen. Brown moved that SB 45 be amended as follows:

3

4

On page 2, line 8, of the Senate State Affairs Committee engrossed bill, after "Development" insert "and the approval of the Joint Committee on Appropriations".

5

On page 2, line 11, delete everything after "transfer" and insert "₁".

6

On page 2, delete line 12.

7

Which motion prevailed.

8

The question being "Shall SB 45 pass as amended?"

9

And the roll being called:

10

Yeas 31, Nays 2, Excused 2, Absent 0

11

Yeas:

12

13

14

15

Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim); Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

16

Nays:

17

Greenfield (Brock); Jensen (Phil)

18

Excused:

19

Ewing; Holien

20

21

So the bill having received an affirmative vote of a majority of the members-elect, the President declared the bill passed and the title was agreed to.

22

23

24

SB 106: FOR AN ACT ENTITLED, An Act to provide for the collection of sales taxes from certain remote sellers, to establish certain Legislative findings, and to declare an emergency.

25

Was read the second time.

26

The question being "Shall SB 106 pass as amended?"

27

And the roll being called:

28

Yeas 33, Nays 0, Excused 2, Absent 0

1 Yeas:

2 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Greenfield (Brock);
3 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Hunhoff (Bernie); Jensen (Phil);
4 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim);
5 Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
6 White

7 Excused:

8 Ewing; Holien

9 So the bill having received an affirmative vote of a two-thirds majority of the members-
10 elect, the President declared the bill passed and the title was agreed to.

11 SB 143: FOR AN ACT ENTITLED, An Act to require the Legislative Planning Committee
12 to implement a performance management review process.

13 Was read the second time.

14 The question being "Shall SB 143 pass as amended?"

15 And the roll being called:

16 Yeas 28, Nays 5, Excused 2, Absent 0

17 Yeas:

18 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Fiegen; Frerichs; Haggar (Jenna); Haverly;
19 Heineman (Phyllis); Heinert; Hunhoff (Bernie); Novstrup (David); Omdahl; Parsley; Peters;
20 Peterson (Jim); Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van
21 Gerpen; Vehle; White

22 Nays:

23 Greenfield (Brock); Jensen (Phil); Monroe; Olson; Otten (Ernie)

24 Excused:

25 Ewing; Holien

26 So the bill having received an affirmative vote of a majority of the members-elect, the
27 President declared the bill passed and the title was agreed to.

28 Sen. Brown moved that the balance of the calendar including SB 159 and HB 1007, 1201,
29 1187, 1120, 1136, and 1005 be deferred to Monday, February 22nd, the 25th legislative day.

30 Which motion prevailed.

31 There being no objection, the Senate reverted to Order of Business No. 5.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Transportation respectfully reports that it has had under consideration SB 110, which was removed from the table, and returns the same with the recommendation that said bill be amended as follows:

110fta

On page 1, line 1, of the printed bill, delete everything after "Act to" and insert "revise certain provisions regarding motor vehicle fuel not specifically taxed under the fuel excise tax.".

110fb

On page 1 of the printed bill, delete lines 3 to 15, inclusive.

On page 2, delete lines 1 to 6, inclusive.

On page 2, line 14, delete "\$.28" and insert "the fuel excise tax for motor fuel imposed by § 10-47B-4".

And that as so amended said bill do pass.

Also MR. PRESIDENT:

The Committee on Transportation respectfully reports that it has had under consideration SB 127 and returns the same with the recommendation that said bill be amended as follows:

127fa

On page 1, line 6, of the printed bill, after "any" insert "nonpublic".

On page 2, line 15, delete "thirty" and insert "forty-five".

On page 2, line 18, remove the overstrikes from "shall".

On page 2, line 19, delete "may".

On page 2, line 19, remove the overstrikes from "or approved".

On page 2, line 24, delete "Thirty" and insert "Forty-five".

On page 4, remove the overstrikes from line 17.

1 On page 4, remove the overstrikes from line 18.

2 On page 4, line 18, overstrike "sixty" and insert "forty-five".

3 On page 4, line 21, remove the overstrikes from "~~or modification~~".

4 On page 4, line 22, delete everything before "within" and insert "of the standard crossing
5 fee".

6 And that as so amended said bill do pass.

7 Also MR. PRESIDENT:

8 The Committee on Transportation respectfully reports that it has had under consideration
9 SB 146 which was tabled.

10 Respectfully submitted,
11 Mike Vehle, Chair

12 Also MR. PRESIDENT:

13 The Committee on Health and Human Services respectfully reports that it has had under
14 consideration SB 152 and returns the same with the recommendation that said bill do pass.

15 Also MR. PRESIDENT:

16 The Committee on Health and Human Services respectfully reports that it has had under
17 consideration SB 72 and returns the same with the recommendation that said bill be amended
18 as follows:

19 72ra

20 On page 2, line 21, of the printed bill, delete everything after "abortion" and insert "of an
21 unborn child capable of feeling pain unless it is necessary to prevent a serious health risk to the
22 unborn child's mother".

23 On page 2, delete line 22.

24 On page 2, line 23, delete everything before "." .

25 72sb

26 On page 7, after line 17 of the printed bill, insert:

1 " Section 10. That § 34-23A-4 be amended to read:

2 34-23A-4. An abortion may be performed following the twelfth week of pregnancy and
3 ~~through the twenty-fourth~~ up to the twentieth week of pregnancy by a physician only in a
4 hospital licensed under the provisions of chapter 34-12 or in a hospital operated by the United
5 States, this state, or any department, agency, or political subdivision of either or in the case of
6 hospital facilities not being available, in the licensed physician's medical clinic or office of
7 practice subject to the requirements of § 34-23A-6.

8 Section 11. That § 34-23A-5 be amended to read:

9 34-23A-5. An abortion may be performed following the ~~twenty-fourth~~ twentieth week of
10 pregnancy by a physician only in a hospital authorized under § 34-23A-4 and only if there is
11 ~~appropriate and~~ reasonable medical judgment that performance of an abortion is necessary to
12 preserve the life or health of the mother due to a serious health risk to the unborn child's
13 mother.".

14 72sa

15 On page 2, line 20, of the printed bill, delete "Class 6 felony" and insert "Class 1
16 misdemeanor".

17 And that as so amended said bill do pass.

18 Also MR. PRESIDENT:

19 The Committee on Health and Human Services respectfully reports that it has had under
20 consideration SB 171 and returns the same with the recommendation that said bill be amended
21 as follows:

22 171ra

23 On the printed bill, delete everything after the enacting clause and insert:

24 " Section 1. That the code be amended by adding a NEW SECTION to read:

25 Terms used in this Act mean:

26 (1) "Cannabidiol," a nonpsychoactive cannabinoid found in the plant cannabis sativa L.
27 or cannabis indica or any other preparation thereof that is essentially free from plant
28 material, and has a tetrahydrocannabinol level of no more than three percent;

29 (2) "Intractable epilepsy," an epileptic seizure disorder for which standard medical
30 treatment does not prevent or significantly reduce reoccurring, uncontrolled seizures
31 or for which standard medical treatment results in harmful side effects;

(3) "Primary caregiver," a person, at least eighteen years of age, who has been designated by a patient's physician, or the patient, as being necessary to managing the well-being of the patient.

4 Section 2. That the code be amended by adding a NEW SECTION to read:

5 Upon proper and thorough examination of a patient, a physician may prescribe the use of
6 cannabidiol in liquid, oil, or pill form for treatment of intractable epilepsy. Any patient
7 diagnosed with intractable epilepsy may possess up to the amount of cannabidiol liquid, oil, or
8 pills prescribed by a physician. A physician may not prescribe cannabidiol for illnesses other
9 than intractable epilepsy.

10 Section 3. That the code be amended by adding a NEW SECTION to read:

11 A patient in possession of a valid cannabidiol prescription is not subject to prosecution
12 pursuant to chapter 22-42, 22-42A, or 34-20B. A physician properly prescribing cannabidiol is
13 not subject to prosecution pursuant to chapter 22-42, 22-42A, or 34-20B. A primary caregiver
14 as defined in section 1 of this Act or a custodial parent of the patient may assist in the
15 administering of the prescribed cannabidiol to the patient and is not subject to prosecution
16 pursuant to chapter 22-42, 22-42A, or 34-20B. A pharmacist or other medical professional
17 handling cannabidiol pursuant to this Act is not subject to prosecution pursuant to chapter 22-
18 42, 22-42A, or 34-20B. However, improper possession or use of a valid cannabidiol prescription
19 by any person is subject to prosecution pursuant to chapter 22-42 or 22-42A."

20 171rta

21 On page 1, line 1, of the printed bill, delete everything after "Act to" and insert "authorize
22 the limited use of certain types of medical marijuana."

23 On page 1, delete line 2.

24 And that as so amended said bill do pass.

Respectfully submitted,
Bruce Rempelberg, Chair

27 **COMMEMORATIONS**

28 SC 14 Introduced by: Senator Brown and Representatives Cronin and Harrison

29 A LEGISLATIVE COMMEMORATION, Congratulating Hunter Heinrich of Boy Scout Troop
30 357 for achieving the rank of Eagle Scout.

1 WHEREAS, Hunter Heinrich, of Eureka, has been examined by the Eagle Scout Board of
2 Review and found worthy of the rank of Eagle Scout and has completed the necessary
3 requirements; and

4 WHEREAS, the Eagle Scout Award is the highest rank a young man can achieve within the
5 Boy Scouts of America, and Hunter was made an official Eagle Scout on December 14, 2015;
6 and

7 WHEREAS, Hunter has shown steady and persistent progress through the ranks to achieve
8 this prestigious award and has taken an oath to be trustworthy, loyal, helpful, friendly,
9 courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent; and

10 WHEREAS, Hunter will be honored by an Eagle Scout Court of Honor on April 2, 2016,
11 at the Zion American Lutheran Church in Eureka, South Dakota; and

12 WHEREAS, Hunter has shown exemplary performance, outstanding character, leadership,
13 loyalty, dedication, and commitment in the Boy Scouts of America, academics, and
14 extracurricular activities:

15 NOW, THEREFORE, BE IT COMMEMORATED, by the Ninety-First Legislature of the
16 State of South Dakota, that the Legislature recognizes and congratulates Hunter Heinrich, a
17 member of Boy Scout Troop 357, for achieving the elevated rank of Eagle Scout.

18 Sen. Rusch moved that the Senate do now adjourn, which motion prevailed and at
19 2:47 p.m. the Senate adjourned.

20 Kay Johnson, Secretary